

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CRAIG CLAY CHASTAIN,

Appellant,

v.

KANSAS CITY, MISSOURI CITY CLERK, et al.,

Respondents.

DOCKET NUMBER WD73634

Date: March 18, 2011

Appeal from:
Jackson Circuit Court
The Honorable Edith L. Messsina, Judge

Appellate Judges:
Special Division: Joseph M. Ellis, Presiding Judge, Thomas H. Newton and Alok Ahuja, Judges

Attorneys:
Craig Clay Chastain, Appellant Pro Se, Kansas City, MO.
Galen P. Beaufort, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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Jackson

Appellant Craig Clay Chastain desires to run for Mayor of Kansas City as a write-in candidate. He alleges that he was informed by the director of the Kansas City Board of Election Commissioners in late November 2010 that he could not run as a write-in candidate in the primary election to be held on February 22, 2011, but could only run as a write-in candidate in the March 22 general election. Chastain accordingly completed a declaration form to run as a write-in candidate in the general election. On or about February 10, 2011, however, Kansas City's City Attorney issued a legal opinion stating that, under the City's Charter, Chastain could only run as a write-in candidate for mayor in the primary election, not in the general election. Based on this legal opinion election authorities informed Chastain that there would be no write-in candidate line on the general election ballot. Accordingly, the election authorities informed Chastain that they would treat his declaration of write-in candidacy as a declaration for the primary election.

Chastain filed this lawsuit on February 24, 2011, seeking a writ of mandamus requiring election authorities to include a write-in line for Mayor on the March 22 general election ballot.

After holding an evidentiary hearing, the circuit court denied relief. It found, first, that mandamus was not the appropriate remedy to interpret provisions of the Kansas City Charter which Chastain concedes are ambiguous. Instead, the circuit court held that Chastain should have filed a declaratory judgment action. In the alternative, the circuit court held that Chastain's claims failed on the merits. Because he had run unsuccessfully in the primary election, the circuit court concluded that the Charter did not permit him a second opportunity to run as a write-in candidate on the general election ballot.

Chastain appeals, arguing that the circuit court erroneously concluded that he had run as a write-in candidate in the primary election, and that its judgment must therefore be reversed.

AFFIRMED.

Opinion Holds:

Chastain's Brief fails to even acknowledge, much less challenge, the circuit court's first stated basis for denying him relief: that a writ of mandamus is not the appropriate mechanism to interpret what Chastain concedes is an ambiguous Charter provision. Chastain's failure to challenge each and every ground on which the circuit court's Judgment depends compels affirmance of the trial court's decision in and of itself.

In addition, to establish a right to mandamus relief, Chastain was required to show that election authorities had a clearly established, non-discretionary duty to place a write-in line on the March 22 ballot. Chastain has not identified, however, any source of legal authority that requires election authorities to do so. Chastain argues that the City Attorney incorrectly concluded that the Charter prohibits write-in candidates in the general election. But even if Chastain is correct on this issue, he himself argues only that the Charter is silent as to whether a write-in line may appear on the general election ballot. Whether the Charter prohibits write-in candidates, or is merely silent on the issue, no one argues that the Charter requires a write-in line on the general election ballot, which is what Chastain would need to establish to obtain mandamus relief. Chastain also argues that a write-in line is required due to the "precedent" of prior general election ballots. But the fact that a write-in line was included on prior ballots does not establish that election authorities are required to include such a line on future ballots; the placement of a write-in line on prior ballots could be explained as an exercise of election authorities' discretion, or because no one previously questioned the practice. Finally, although Chastain's petition makes a vague reference to "state law," he has failed to identify any specific state law that requires the relief he seeks.

Before: Special Division: Joseph M. Ellis, Presiding Judge, and Thomas H. Newton and Alok Ahuja, Judges

Opinion by: Alok Ahuja, Judge

March 18, 2011

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